

REMARKS

This paper is being provided in response to the Final Office Action dated March 23, 2006, for the above-referenced application. In this response, Applicants have amended claims 10-14 to clarify that which Applicants consider to be the invention. Applicants respectfully submit that the amendments to the claims are fully supported by the originally-filed specification. Further, as discussed below, Applicants submit herewith a Declaration under 37 C.F.R. 1.131 executed by the inventors.

The rejection of claims 10-14 under 35 U.S.C. 101 as non-statutory subject matter and the rejections of claims 10-14 under 35 U.S.C. 112, first paragraph, have been addressed by amendments contained herein and reconsideration is respectfully requested. Claims 10-14 have been amended to recite computer software stored in a computer-readable medium and is statutory subject matter as provided under the MPEP. Specifically, MPEP 2106(IV)(B)(1) states as follows:

[F]unctional descriptive material" consists of data structures and computer programs which impart functionality when encoded on a computer-readable medium. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).)...When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases.

Applicants direct specification attention to, for example, page 22, line 6 to page 27, line 22 and FIGS. 9 and 10 of the originally-filed specification and submit that the claims, as amended, are fully supported by the originally filed application and recite statutory subject matter.

Accordingly, Applicants respectfully submits that the rejections should be reconsidered and withdrawn.

The rejection of claims 1-6 and 10-14 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent App. Pub. No. 2004/0205384 to Lai et al. (hereinafter “Lai”) in view of U.S. Patent No. 6,052,308 to Pitts (hereinafter “Pitts”), the rejection of claims 7-9 under 35 U.S.C. as being unpatentable over Lai in view of Pitts and further in view of U.S. Patent App. Pub. No. 2005/0160311 to Hartwell, et al. (hereinafter “Hartwell”), and the rejection of claims 15-20 under 35 U.S.C. 103(a) as being unpatentable over Lai in view of Hartwell and further in view of Pitts, are all hereby traversed in view of the submission herewith of a 131 Declaration, as further detailed below.

The Lai reference is a published U.S. patent application that was filed in the United States on February 18, 2004, and published on October 14, 2004. The present above-captioned patent application to Cartmell, et al. (hereinafter “the present patent application”) was filed in the United States on March 29, 2004. Accordingly, the Lai reference is prior art under 35 U.S.C. 102(e).

Applicants submit herewith a revised Declaration under 37 C.F.R. 1.131 that has been executed by all the inventors (hereinafter “the 131 Declaration”) as required by the Examiner in reference to MPEP 715.04(I). The attached 131 Declaration provides facts sufficient to establish conception of the claimed invention prior to the February 18, 2004, effective date of the Lai reference and due diligence by the inventors from a time prior to February 18, 2004, until the

invention was constructively reduced to practice by the filing of the present patent application on March 29, 2004. Accordingly, in view of the above, Applicants submit that any rejections using the Lai reference should be withdrawn.

Based on the above, Applicants respectfully request that the Examiner reconsider and withdraw all outstanding rejections and objections. Favorable consideration and allowance are earnestly solicited. Should there be any questions after reviewing this paper, the Examiner is invited to contact the undersigned at 508-898-8603.

Respectfully submitted,
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